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ATTORNEY DOCKET NO. 9336-3

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Timothy M. Crowder et al.

Serial No. 10/606,678

Filed: June 26, 2003

For: **DRY POWDER DOSE FILLING SYSTEMS AND RELATED METHODS**

Confirmation No.: 5316

Group Art Unit: 2857

Date: February 20, 2004

Mail Stop PETITION
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Attn: E. Shirene Willis

**SECOND PETITION TO ACCORD THE PROPER FILING DATE IN RESPONSE
TO DECISION DISMISSING THE FIRST PETITION FOR SAME**

Sir:

As set forth in 37 CFR § 1.10(c) and MPEP § 506.02, Applicant hereby petitions to grant the proper filing date of June 26, 2003 rather than June 27, 2003 for the above-identified patent application as this was the date the application was deposited as "Express Mail" in the U.S. Postal Service. A First Petition to Accord the proper filing date was previously submitted and a Decision Dismissing the First Petition was mailed January 20, 2004, indicating that the Office of Petitions did not have the evidentiary documents in support of the First Petition, although Applicants had submitted the First Petition with same (see attached copy of USPTO stamped post card dated 10/14/03 acknowledging receipt of these documents). Copies of the First Petition and Dismissal are enclosed for ease of reference. Thus, this Second Petition is submitted with the following evidentiary documents enclosed as evidence of June 26, 2003 being the correct filing date for the application which was properly filed under 37 C.F.R. § 1.10:

1. A true and accurate copy of the Cover Sheet for the Application showing the Express Mail signature and date on Page 2;
2. A true and accurate copy of the Express Mail Pickup Service Statement dated June 26, 2003;
3. A true and accurate copy of the Track & Confirm from the United States Postal Service website (www.usps.com) indicating receipt of the Express Mail package

In re: Timothy M. Crowder et al.
Serial No. 10/606,678
Filed: June 26, 2003
Page 2 of 3

at the Post Office on June 26, 2003 and delivery of the package at the USPTO on June 27, 2003;


4. A true and accurate copy of our return post card and of the official filing receipt for this application, sent by the United States Patent and Trademark Office, showing that Applicant was improperly given the filing date of June 27, 2003 instead of the Express Mail date of June 26, 2003; and

5. A true and accurate copy of our return post card showing that Applicant submitted the above documents as proof of filing date of June 27, 2003 and of the Decision dismissing Petition sent by the United States Patent and Trademark Office.

The First Petition was filed promptly after Applicant became aware of the improperly accorded filing date and this Second Petition is filed promptly after receipt of the Dismissal of the First Petition. Accordingly, Applicant respectfully requests the granting of June 26, 2003 as the filing date pursuant to 37 CFR § 1.10.

On the basis that Applicant properly followed the requirements of 37 CFR § 1.10 and the USPTO failed to accord the proper filing date under MPEP § 505 and thus the need to file this petition is due to error on the part of the USPTO, it is applicant's belief that no fee is due with this petition. However, the Commissioner is authorized to charge any deficiency or credit any overpayment to Deposit Account No. 50-0220.

Respectfully submitted,


Julie H. Richardson
Attorney For Applicant
Registration No. 40,142

USPTO Customer No. 20792
Myers Bigel Sibley & Sajovec
Post Office Box 37428
Raleigh, North Carolina 27627
Telephone: 919/854-1400
Facsimile: 919/854-1401

In re: Timothy M. Crowder et al.
Serial No. 10/606,678
Filed: June 26, 2003
Page 3 of 3

Certificate of Mailing under 37 CFR 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Office of Patent Legal Administration, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on February 20, 2004.

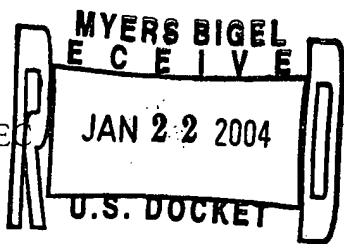
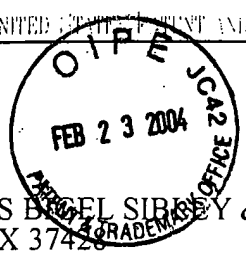


Rosa Lee Brinson

JAR



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RALEIGH NC 27627

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JAN 20 2004

OFFICE OF PETITIONS

In re Application of
Crowder, et al.
Application No. 10/606,678
Filed: June 27, 2003
Attorney Docket No. 9336-3
For: DRY POWDER DOSE FILLING SYSTEMS
AND RELATED METHODS

DECISION DISMISSING
PETITION

This is a decision on the petition under 37 CFR 1.10(c), filed October 16, 2003 (certificate of mailing date October 14, 2003), requesting that the above-identified application be accorded a filing date of June 26, 2003, rather than the presently accorded filing date of June 27, 2003.

Petitioners request the earlier filing date on the basis that the application was purportedly deposited in Express Mail service on June 26, 2003, pursuant to the requirements of 37 CFR 1.10.

Unfortunately, the evidence to prove the June 26, 2003 filing is missing from the petition. Only the two page petition is present in the application file. The undersigned cannot properly render a decision until (at least) the copy of the Express Mail Pickup Service statement and the Track and Confirm statement, both referenced in the petition, are re-submitted.

Accordingly, the petition is dismissed and the filing date remains July 27, 2003. No petition fee has been or will be charged in connection with this matter.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450
Attn: E. Shirene Willis

By hand: Crystal Plaza 1 Lobby
2011 South Clark Place
Room 1B03
Arlington, VA 22202
Attn: E. Shirene Willis

By FAX: (703) 872-9306
ATTN: Office of Petitions -- E. Shirene Willis

01-22-04 A09:22 IN

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 308-6712.

A handwritten signature in cursive script, appearing to read "E. Shirene Willis".

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

Office of Patent Legal Admin

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

5/16/16
10-20-03

Date: 10-14-03
Doc. No. 9336.3
Serial No. 10/606 678
Inventor: Crowder et al.

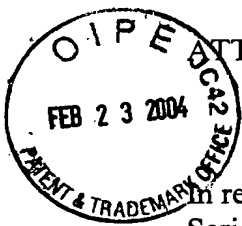
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<input type="checkbox"/> Specification pages	<input type="checkbox"/> IDS & PTO-1449 & refs.
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<input type="checkbox"/> Assignment and Fee	<input type="checkbox"/> Issue Fee
<input type="checkbox"/> Small Entity Statement	<input type="checkbox"/> Brief
<input type="checkbox"/> Formal Drawings/ sheets	<input type="checkbox"/> Appcal
<input type="checkbox"/> Associate Power of Attorney	<input type="checkbox"/> Submittal of Priority Doc.
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✓ Other: *Petition to Accord Proper Filing Date; Ret. Incom.;*
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Post Card w/ Stamp; *Respectfully submitted,*
copy of Filing Receipt *MYERS BIGEL SIBLEY & SAJOVEC, P.A.* *Return Post*
Attorneys for Applicant *Card*

AV



ATTORNEY DOCKET NO. 9336-3

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Timothy M. Crowder et al.

Serial No. 10/606,678

Filed: June 26, 2003

For: **DRY POWDER DOSE FILLING SYSTEMS AND RELATED METHODS**

Confirmation No.: 5316

Group Art Unit: 2857

Date: October 14, 2003

Office of Patent Legal Administration
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION TO ACCORD THE PROPER FILING DATE

Sir:

As set forth in 37 CFR § 1.10(c) and MPEP § 506.02, Applicant hereby petitions to grant the proper filing date of June 26, 2003 rather than June 27, 2003 for the above-identified patent application as this was the date the application was deposited as "Express Mail" in the U.S. Postal Service. The following is enclosed as evidence of June 26, 2003 being the correct filing date for the application which was properly filed under 37 C.F.R. § 1.10:

1. A true and accurate copy of the Cover Sheet for the Application showing the Express Mail signature and date on Page 2;
2. A true and accurate copy of the Express Mail Pickup Service Statement dated June 26, 2003;
3. A true and accurate copy of the Track & Confirm from the United States Postal Service website (www.usps.com) indicating receipt of the Express Mail package at the Post Office on June 26, 2003 and delivery of the package at the USPTO on June 27, 2003; and
4. A true and accurate copy of our return post card and of the official filing receipt for this application, sent by the United States Patent and Trademark Office, showing that Applicant was improperly given the filing date of June 27, 2003 instead of the Express Mail date of June 26, 2003;

In re: Timothy M. Crowder et al.
Serial No. 10/606,678
Filed: June 26, 2003
Page 2 of 2

This petition is being filed promptly after Applicant became aware of the improperly accorded filing date. Accordingly, Applicant respectfully requests the granting of June 26, 2003 as the filing date pursuant to 37 CFR § 1.10.

On the basis that Applicant properly followed the requirements of 37 CFR § 1.10 and the USPTO failed to accord the proper filing date under MPEP § 505 and thus the need to file this petition is due to error on the part of the USPTO, it is applicant's belief that no fee is due with this petition. However, the Commissioner is authorized to charge any deficiency or credit any overpayment to Deposit Account No. 50-0220.

Respectfully submitted,

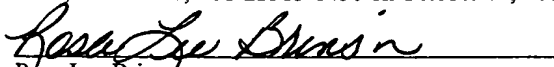


Julie H. Richardson
Attorney For Applicant
Registration No. 40,142

USPTO Customer No. 20792
Myers Bigel Sibley & Sajovec
Post Office Box 37428
Raleigh, North Carolina 27627
Telephone: 919/854-1400
Facsimile: 919/854-1401

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I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Office of Patent Legal Administration, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on October 14, 2003.


Rosa Lee Brinson

by reference therein.


7. ☐ Microfiche Computer Program (*Appendix*)
8. ☐ Assignment papers (*cover sheet(s) and document(s)*)
9. ☒ Applicant claims small entity status. See 37 CFR 1.27.
10. ☐ Information Disclosure Statement, PTO-1449, and _____ references cited
11. ☐ Preliminary Amendment (*Please enter all claim amendments prior to calculating the filing fee.*)
12. ☐ English Translation Document
13. ☐ Certified Copy of _____ Application No. _____ ; Filed
14. ☐ Sequence Listing/ Sequence Listing Diskette
 a. ☐ computer readable copy
 b. ☐ paper copy
 c. ☐ statement in support
15. ☐ An Associate Power of Attorney
16. ☒ Return Receipt Postcard (MPEP 503) (*Should be specifically itemized*)
17. ☐ Other:

The fee has been calculated as shown below:

	Column 1 No. Filed	Column 2 No. Extra	Small Entity Rate Fee	Large Entity Rate Fee
BASIC FEE			\$375.00	\$ 750.00
TOTAL CLAIMS	73 - 20 =	53	x 09 = \$ 477.00	x 18 = \$
INDEP CLAIMS	6 - 3 =	3	x 42 = \$ 126.00	x 84 = \$
<input type="checkbox"/> MULTIPLE Dependent Claims Presented			+ 140 = \$	+ 280 = \$
If the difference in Col. 1 is less than zero, Enter "0" in Col. 2			Total \$ 978.00	Total \$

- ☒ A check in the amount of \$978.00 to cover the filing fee is enclosed.
☐ A check in the amount of \$ _____ is enclosed to cover the filing fee, PLUS the Assignment Recordation fee (\$40.00).
☐ Please charge my Deposit Account No. 50-0220 in the amount of \$ _____
☒ The Commissioner is hereby authorized to credit overpayments or charge the following fees associated with this communication to Deposit Account No. 50-0220:
 a. ☒ Additional filing fees under 37 CFR 1.16 for presentation of extra claims.
 b. ☒ Additional patent application processing fees under 37 CFR 1.17.

Respectfully submitted,

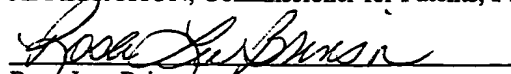

Julie H. Richardson
Registration No. 40,142

CERTIFICATE OF EXPRESS MAILING

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Date of Deposit: June 26, 2003

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MS Patent Application

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir: 07-15-03 A08:44 IN

Kindly acknowledge receipt of the accompanying items listed below by placing your receiving stamp hereon and return mailing:

Application Transmittal and:

✓ Specification pages 54✓ No. of Claims 73

Declaration & POA

Assignment and Fee

Small Entity Statement

✓ Formal Drawings/16 sheets

Associate Power of Attorney

✓ Exp. Mail

1st Class Mail

Other: Application filed Under 37 CFR 1.41(c)
Return Post CardDate: 6-26-03Doc. No. 9336-3Serial No. TBDInventor: Crowder et al.✓ Check \$ 978.00IDS & PTO-1449 & refs.

Amendment & Amend. Transmittal

Preliminary Amendment

Issue Fee

Brief

Appeal

Submittal of Priority

17410 U.S. PTO

10/606678



06/27/03

Respectfully submitted,

MYERS BIGEL SIBLEY & SAJOVEC, P.A.

Attorneys for Applicant